

## APPEAL NO. 010844

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 22, 2001. The hearing officer determined that the appellant (claimant) did not sustain an injury from riding with a coworker or have disability due to the lack of a compensable injury.

The claimant has appealed, and argues that the hearing officer ignored the medical evidence and the weight of the testimonial evidence. The respondent (carrier) argues evidence that it says supports the hearing officer's decision.

### DECISION

We affirm the hearing officer's decision.

The claimant contended that the mechanism of injury was being a passenger in a car driven erratically by her coworker, Mr. B, on February 21, 2000, while working in another city for the employer. Contrary evidence was offered that the claimant did not immediately complain of any injury when she complained about Mr. B's driving. Objective medical testing of the cervical area was normal. Medical notes indicate that she complained of stress and tension at work and headaches, and had complaints that developed in March of neck and shoulder pain.

The evidence was conflicting, and we do not agree that the hearing officer erred in his weighing and evaluation of the evidence. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.).

The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual

Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We cannot agree that this was the case here, and affirm the decision and order.

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge